

REMARKS

The 36 pending claims are the subject of a 36 way Restriction Requirement, mailed January 8, 2008. The Applicants traverse the Restriction Requirement and propose an alternative.

Section 803 of the MPEP identifies when restriction is proper. "Under the statute, the *claims* of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct." (emphasis added). Section 803.02 deals specifically with restriction practice as it relates to Markush-type claims. "It is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility and (2) share a substantial structural feature essential to that utility."

The Office has restricted each of the Markush-type claims in the pending application without identifying a proper lack of unity of invention. The compounds of Formula I, for example, all share, at least, the common utility of being useful for diagnostic imaging and share the substantial structural feature essential to that utility being the structure of Formula I. A similar analysis applies to each of Formulas II-VI.

The Applicants, therefore, propose the following, alternative Restriction:

Group I: claims 1-9 and 34, in part, directed to compounds of Formula I;

Group II: claim 35, in part, directed to a diagnostic composition of compounds of Formula I;

Group III: claim 36, in part, directed to methods of imaging using diagnostic compositions of compounds Formula I;

Group IV: claims 10-15 and 34, in part, directed to compounds of Formula II;

Group V: claim 35, in part, directed to diagnostic compositions of compounds Formula II;

Group VI: claim 36, in part, directed to methods of imaging using diagnostic compositions of compounds Formula II;

Group VII: claims 16-24, directed to compounds of Formula III;

Group VIII: claims 25-28, directed to radioisotopic complexes of compounds of Formula III;

Group IX: claim 29, directed to compounds of Formula IV;

Group X: claim 30, directed to radioisotopic complexes of compounds of Formula IV;

Group XI: claim 31, directed to compounds of Formula V;

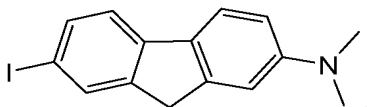
Group XII: claim 35, in part, directed to diagnostic compositions comprising compounds of Formula V;

Group XIII: claim 36, in part, directed to methods of imaging amyloid deposits using diagnostic compositions of compounds Formula V;

Group XIV: claim 32, directed to compounds of Formula VI;

Group XV: claim 33, directed to radioisotopic complexes of compounds of Formula VI.

In light of the proposed Restriction, the Applicants hereby elect Group IV, directed to compounds of Formula II. Claims 10-15 and 34, in part, are directed to the elected Group. To the extent the Office further requires an election of a single species, the Applicants elect compound 2f:



Compound 2f is depicted in, for example, Scheme 1 of the specification. Claims 10-15 and 34 (in part) read on the elected species.

It is the Applicants' understanding that the above election is being made to aid the Examiner in conducting a search and examination of the claimed subject matter and is not to be construed as limiting the scope of the claims. It is also the Applicants' understanding that if the elected subject matter is found to be allowable over the prior art, the search and examination will be expanded to cover other species until it includes the full scope of the generic claims of the invention.

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PATENT

An early and favorable examination on the merits is respectfully requested.

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